

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of)	CEASE AND DESIST ORDER
)	AND NOTICE OF
First Actual American Insurance)	OPPORTUNITY FOR HEARING
Company, Paul Erickson, and)	
Certain John Does,)	CASE NO. CO-03-106
)	
Respondent.)	

TO: First Actual American Insurance Company, 1940 South Broadway, Suite 231, Minot, ND 58701-6508

Paul Erickson, First Actual American Insurance Company, 301 Jackson Street, Denver, CO 80206

Commissioner of Insurance Jim Poolman (hereinafter “Commissioner”) has determined as follows:

1. N.D. Cent. Code § 26.1-01-03.1 authorizes the Commissioner to issue an Order to cease and desist when it appears that any person or business entity is or has engaged in an act or practice which violates or may lead to a violation of the North Dakota Century Code.

2. N.D. Cent. Code § 26.1-02-05 prohibits the transaction of insurance business in North Dakota without a Certificate of Authority from the North Dakota Insurance Commissioner.

3. N.D. Cent. Code § 26.1-02-06 states:

Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurance company constitutes the transaction of an insurance business in this state:

1. Making or proposing to make, as an insurance company, an insurance contract.

...

3. Taking or receiving of any application for insurance.
4. Receiving or collecting any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof.
5. Issuing or delivering an insurance contract to residents of this state or to persons authorized to do business in this state.
6. Directly or indirectly acting as an insurance producer for or otherwise representing or aiding on behalf of another, any person or insurance company in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, or fixing of rates, or investigation or adjustment of claims or losses, or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurance company in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed, in this state. This subsection does not prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance on behalf of the employer.
7. Transacting any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance.
8. Transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing in a manner designed to evade these statutes.

4. N.D. Cent. Code Chapter 26.1-26- governs the qualifications and procedures for the licensing of insurance producers within the State of North Dakota.

5. N.D. Cent. Code § 26.1-26-02 defines “insurance producer” as a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

6. N.D. Cent. Code § 26.1-26-03 states:

No person may act as or hold oneself out to be an insurance producer, insurance consultant, or surplus lines insurance producer unless licensed under this chapter. A person may not sell, solicit, or negotiate insurance in this state for any class of insurance unless the person is licensed for that line of authority in accordance with this chapter. Any person willfully violating this section is guilty of a class C felony.

7. First Actual American Insurance Company, Paul Erickson, and certain John Does unknown to the Commissioner but acting on behalf of First Actual American Insurance Company (hereinafter “Respondents”) are not currently licensed to solicit the sale of insurance in the State of North Dakota nor are Respondents licensed as an insurance company to sell or solicit or receive applications for the sale of insurance in North Dakota.

8. It appears Respondents directly and indirectly have acted or proposed to act as an insurance company or as insurance producers on behalf of insurance companies in the solicitation, negotiation, procurement, or effectuation of insurance. Respondents appear to have committed the act or propose to commit the act of engaging in the business of insurance by offering an application for professional liability insurance to North Dakota residents without the required licenses or Certificates of Authority. Specifically, the Respondents directly or through certain John Does solicited the sale of insurance through their Internet website “www.faaic.com”, a copy of which is attached as Exhibit “A”. Paul Erickson is listed as the registrant and administrator of Respondent’s website.

9. Respondents’ conduct constitutes a violation of N.D. Cent. Code §§ 26.1-26-03 and 26.1-26-05.

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D. Cent. Code § 26.1-01-03.1 that Respondents shall immediately **CEASE AND DESIST** from soliciting, transacting, or otherwise engaging in the business of insurance with residents of the State of North Dakota either

through solicitations through the Internet website “www.faaic.com” or otherwise, nor may Respondents accept any insurance commission, brokerage, or other valuable consideration for services as an agent.

IT IS FURTHER ORDERED pursuant to N.D. Cent. Code § 26.1-01-03.1 that Respondents may make a written request for a hearing on this matter within 30 days of the date of this Order.

If the Respondent fails to request a hearing in writing within 30 days after being served with a copy of this Cease and Desist Order, the Commissioner shall make the Cease and Desist Order permanent, as the facts require.

DATED this _____ day of _____, 2003.

Jim Poolman
Commissioner
N.D. Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440